

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

DANIEL PACE,

Plaintiff,

v.

Case No. 16-cv-542-JPG-RJD

ANDY MYERS, SGT. PAT GREENWOOD,  
BILL GROSS and CORY HEUERMAN,

Defendants.

**MEMORANDUM AND ORDER**

This matter comes before the Court on the Report and Recommendation (“Report”) (Doc. 47) of Magistrate Judge Reona J. Daly recommending that the Court grant plaintiff Daniel Pace’s motion for leave to file an amended complaint (Doc. 39) and deny his motion for leave to file a supplemental pleading (Doc. 41).

The Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in a report and recommendation. Fed. R. Civ. P. 72(b)(3). The Court must review *de novo* the portions of the report to which objections are made. *Id.* “If no objection or only partial objection is made, the district court judge reviews those unobjected portions for clear error.” *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999).

The Court has received no objection to the Report. The Court has reviewed the entire file and finds that the Report is not clearly erroneous. Accordingly, the Court hereby:

- **ADOPTS** the Report in its entirety (Doc. 47);
- **GRANTS** Pace’s motion for leave to file an amended complaint (Doc. 39);
- **DIRECTS** the Clerk of Court to file the proposed Second Amended Complaint and its

exhibits tendered with Pace's motion;

- **DISMISSES without prejudice** all claims against defendant Ramiee Phillips, who is terminated from this case;
- **DIRECTS** the Clerk of Court to add Cory Heuerman as a defendant and effect service as directed below;
- **DENIES** Pace's motion for leave to file a supplemental pleading (Doc. 41); and
- **DIRECTS** the Clerk of Court to enter judgment accordingly at the close of the case.

The remaining claims in this case are as follows:

**COUNT 1:** Fourteenth Amendment deliberate indifference claim against Heuerman, Gross, Greenwood, and Myers when they denied him pain medication and refused to arrange for Plaintiff to see a dentist in April 2016 in response to Plaintiff's serious medical condition of a broken tooth;

**COUNT 2:** Fourteenth Amendment deliberate indifference claim against Myers and Greenwood for failing to provide Plaintiff with the medical treatment recommended by outside psychiatric professionals;

**COUNT 3:** Fourteenth Amendment excessive force claim against Gross for hitting Plaintiff's foot in the cell door on July 18, 2016;

**COUNT 4:** Fourteenth Amendment deliberate indifference claim against Myers and Greenwood for failing to provide Plaintiff with medical treatment for his digestive problems in late July through early August 2016.

**IT IS FURTHER ORDERED** that the Clerk of Court shall prepare for defendant Heuerman: (1) Form 5 (Notice of a Lawsuit and Request to Waive Service of a Summons), and (2) Form 6 (Waiver of Service of Summons). The Clerk is **DIRECTED** to mail these forms, a copy of the Second Amended Complaint, Magistrate Judge Daly's Report and Recommendation (Doc. 47) and this Memorandum and Order to this Defendant's place of employment as identified by Plaintiff. If this Defendant fails to sign and return the Waiver of Service of Summons (Form 6) to the Clerk within 30 days from the date the forms were sent, the Clerk shall take appropriate steps to

effect formal service on that Defendant, and the Court will require that Defendant to pay the full costs of formal service, to the extent authorized by the Federal Rules of Civil Procedure.

**IT IS FURTHER ORDERED** that, with respect to a Defendant who no longer can be found at the work address provided by Plaintiff, the employer shall furnish the Clerk with the Defendant's current work address, or, if not known, the Defendant's last-known address. This information shall be used only for sending the forms as directed above or for formally effecting service. Any documentation of the address shall be retained only by the Clerk. Address information shall not be maintained in the court file or disclosed by the Clerk.

**IT IS FURTHER ORDERED** that Plaintiff shall serve upon Defendants (or upon defense counsel once an appearance is entered), a copy of every pleading or other document submitted for consideration by the Court. Plaintiff shall include with the original paper to be filed a certificate stating the date on which a true and correct copy of the document was served on Defendants or counsel. Any paper received by a district judge or magistrate judge that has not been filed with the Clerk or that fails to include a certificate of service will be disregarded by the Court.

Defendants are **ORDERED** to timely file an appropriate responsive pleading to the Second Amended Complaint and shall not waive filing a reply pursuant to 42 U.S.C. § 1997e(g).

**IT IS SO ORDERED.**

**DATED: March 17, 2017**

s/ J. Phil Gilbert  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**